



Billing Code: 6730-01-P

FEDERAL MARITIME COMMISSION

[DOCKET NO. 12-03]

THE AUCTION BLOCK COMPANY, an ALASKA CORPORATION

V.

**THE CITY OF HOMER, A MUNICIPAL CORPORATION
and its PORT OF HOMER**

NOTICE OF FILING OF COMPLAINT AND ASSIGNMENT

Notice is given that a complaint has been filed with the Federal Maritime Commission (Commission) by The Auction Block Company, an Alaska Corporation, hereinafter "Complainant," against the City of Homer, a municipal corporation, and its Port of Homer, hereinafter "Respondents". Complainant asserts that it is a seafood processing and logistics firm organized under the laws of the State of Alaska. Complainant alleges that Respondent the City of Homer is a municipal corporation organized under the laws of Alaska, is a marine terminal operator and owns and operates the Port of Homer.

Complainant alleges that it pays to Respondents the rates published in Respondents' tariff for use of the premises and a crane, but that " its major competitor, Icicle Seafoods, Inc. d/b/a/ Seward Fisheries, is not assessed and does not pay the rates published in the Tariff." Therefore Complainant alleges that Respondent is in violation of 46 U.S.C. §§41106(2) and (3) as it "has given undue and/or unreasonable preference and/or advantage and/or imposed undue or unreasonable prejudice and/or disadvantage with respect to Complainant.

Complainant requests that the Commission order Respondent to "cease and desist

from the aforesaid violations of said acts; to establish and put in force such practices as the Commission determines to be lawful and reasonable; to pay to said Complainant by way of reparations and damages for the unlawful conduct . . . the sum of \$682,114.83 with interest and attorney's fees or such other sum as the Commission may determine to be proper as an award of reparations and damages; and that such other and further order or orders be made as the Commission determines to be just and proper in the premises." The full text of the complaint can be found in the Commission's Electronic Reading Room at www.fmc.gov.

This proceeding has been assigned to the Office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 C.F.R. 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 C.F.R. 502.61, the initial decision of the presiding officer in this proceeding shall be issued by April 10, 2013 and the final decision of the Commission shall be issued by August 8, 2013.

Karen V. Gregory
Secretary

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